

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**TRAVIS RHODES, as Personal  
Representative of the Estate of  
TIMOTHY E. RHODES,**

**Plaintiff,**

**v.**

**Civil Action No. 2:19-cv-00626**

**DEPUTY SHERIFF MICHAEL KING,  
and the ROANE COUNTY COMMISSION,**

**Defendants.**

**FINAL ORDER APPROVING SETTLEMENT**

On the 3rd of December, 2021, Plaintiff Travis Rhodes, as Administrator of the Estate of Timothy E. Rhodes, filed his *Verified Petition for Approval of Wrongful Death Settlement and Distribution of Proceeds* (ECF 91) explaining that he has negotiated a settlement of the wrongful death claim of the Estate of Timothy E. Rhodes. A *Supplement to Verified Petition for Approval of Wrongful Death Settlement and Distribution of Proceeds*, attaching notarized Consent and Authorizations signed by each statutory beneficiary was subsequently filed on December 9, 2021 (ECF 92).

Thereupon the Court proceeded to review the Verified Petition and proposed distribution of the settlement proceeds, and the notarized consents to the proposed distribution from the statutory beneficiaries. The Court makes the following findings of fact:

1. Petitioner is the duly appointed Administrator of the Estate of Timothy E. Rhodes, deceased.
2. Petitioner is an adult over the age of eighteen (18) years.

3. This claim is for the alleged wrongful death of Timothy E. Rhodes (“Timmy”) caused by a shooting incident that occurred on the 22nd day of February, 2019, in the Ambler Ridge area of Roane County, West Virginia. As a result of the injuries he sustained in the incident, Timmy died. Petitioner brought this wrongful death action against Defendants, Roane County Commission (“RCC”) and Deputy Sheriff Michael King, alleging several causes of action, including violations of Timmy’s Constitutional Rights and negligence that Defendants are liable for Timmy’s injuries and death based upon Defendants’ unsafe practices, acts and omissions.

4. Defendants deny the allegations contained in the original Complaint.

5. Petitioner has negotiated with Defendants an agreement for the settlement of the wrongful death claim asserted in Petitioner’s Complaint.

6. Under the proposed settlement, the Defendant RCC will pay to Petitioner the sum of seven hundred thousand dollars and zero cents (\$700,000.00), and Plaintiff shall voluntarily dismiss with prejudice Defendant Deputy Sheriff Michael King. The payment from the RCC is in exchange for the full release of the RCC by the Plaintiff and the Estate of Timothy E. Rhodes for any and all claims against the RCC arising out of the death of Timothy Rhodes on February 22, 2019. The full terms of the agreed upon settlement are set forth in the Release to be executed by Petitioner.

7. The total settlement value to be distributed pursuant to W. Va. Code § 55-7-7 is seven hundred thousand dollars and zero cents (\$700,000.00).

8. The agreed upon settlement is a fair and reasonable settlement of the claims asserted herein, and the settlement is in the best interest of the Estate of Timothy E. Rhodes and the beneficiaries of the estate.

9. Petitioner is empowered by West Virginia Code §55-7-7 to compromise the wrongful death claim which he possesses as the Administrator of the Estate of Timothy E. Rhodes.

10. The decedent, Timothy Rhodes, was survived by his brother, Travis Rhodes; his brother, William Rhodes; and his mother, Lori Rhodes. These beneficiaries are all over the age of eighteen (18) years. There are no other beneficiaries of the Estate and no other persons who were financially dependent upon Timothy Rhodes at the time of his death. William Rhodes and Lori Rhodes were given proper notice of the settlement and Lori Rhodes has waived her right to any settlement proceeds. All adult statutory beneficiaries, including William Rhodes and Lori Rhodes have filed notarized, signed Consent and Authorization forms consenting to the proposed distribution of settlement proceeds as described in the Verified Petition.

11. Petitioner, individually, and as the Administrator of the Estate of Timothy E. Rhodes, engaged the law firm of Calwell Luce diTrapano PLLC to prosecute Petitioner's wrongful death claim pursuant to an agreement that calls for Petitioner to pay said law firm a contingent fee equal to forty percent of the gross monies recovered and to reimburse the law firm for expenses incurred in prosecuting the wrongful death claim. Petitioner further consented to a co-counsel agreement between Calwell Luce diTrapano PLLC and Goodwin & Goodwin, LLP whereby both firms would prosecute the wrongful death claim and share in the previously agreed upon forty percent attorney fee. Petitioner has been advised of the amount of legal fees (\$280,000.00) and expenses (\$66,345.18) due the firms of Calwell Luce diTrapano PLLC and Goodwin & Goodwin, LLP. The Court was advised that Petitioner believes these sums to be fair and reasonable and that he has agreed to pay attorney fees and expenses in these amounts, which fees and expenses the Court finds to be fair and reasonable, and the payment thereof is hereby approved.

13. Petitioner understands the terms of the settlement and he further understands that he is releasing all claims against the RCC and dismissing Deputy Sheriff Michael King.

14. The Court finds that the settlement entered into between Plaintiff, Travis Rhodes, as Administrator of the Estate of Timothy E. Rhodes, and Defendant, Roane County Commission is fair and reasonable and was entered into in good faith.

The Court makes the following rulings:

1. The Court hereby **APPROVES** the Petition and grants Petitioner the authority, as Administrator of the Estate of Timothy E. Rhodes, to execute full and complete releases, forever discharging the RCC from any and all further liability in connection with or arising out of the claims alleged in this civil action, as is more fully set forth in the confidential settlement agreement and release between the parties to this case.

2. It is **ORDERED** that the total settlement amount set forth in the Verified Petition is approved, ratified, and confirmed. The RCC shall make the settlement funds in this matter payable to Travis Rhodes and Calwell Luce diTrapano PLLC for distribution in accord with this Court's direction as set forth below. Calwell Luce diTrapano PLLC shall then share the attorney fee with Goodwin & Goodwin, LLP and reimburse Goodwin & Goodwin, LLP for its share of the expenses.

3. The Court **ORDERS** that the total settlement proceeds be distributed to Travis Rhodes and Plaintiff's counsel as follows:

A. All settlement funds remaining after deduction of attorney fees of two hundred eighty thousand dollars (\$280,000.00) and reimbursable expenses of sixty-six thousand three hundred forty-five dollars and eighteen cents (\$66,345.18), leaving a total of three hundred fifty-three thousand six hundred fifty-four dollars and eighty-two cents (\$353,654.82), shall be distributed as follows:

- i. \$7,439.88 to Travis Rhodes as reimbursement for the costs associated with the funeral and burial of Timothy Rhodes.
- ii. \$246,214.94 to Travis Rhodes, as Timmy's brother and administrator of the Estate of Timothy E. Rhodes. Travis has spent considerable time and has

incurred expenses through execution of his duties as Administrator of the Estate of Timothy E. Rhodes, including without limitation payment of costs associated with estate administration, lost wages due to missed work, travel expenses, fees and other costs.

- iii. \$100,000.00 to William Rhodes, as Timmy's brother. Mr. William Rhodes has consented in writing to the proposed distribution set forth above.
- iv. \$0 to Lori Rhodes, as Timmy's mother. Mrs. Rhodes has consented in writing to waive her right to receive any settlement proceeds in lieu of distribution of the proceeds exclusively to Travis and William and has specifically agreed to the proposed distribution set forth above.

4. A copy of the Verified Petition for Approval of Wrongful Death Settlement and Distribution of Proceeds was previously filed with the Clerk. Additionally, a copy of this Order shall also be filed with the Clerk.

It is further **ORDERED** that the Clerk of the Court is hereby directed to provide a certified copy of this Order upon its entry to counsel of record.

ENTER: December 13, 2021



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THOMAS E. JOHNSTON, CHIEF JUDGE

Prepared by:

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